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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,763	09/08/2000	Herbert Parks Hartgrove	PGI6044P0200US	3252

7590 07/16/2002
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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

A 8-6

Office Action Summary

Application No.

09/658763

Applicant(s)

Hartgrove

Examiner

John Guarriello

Group Art Unit

1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-22 is/are pending in the application.
- Of the above claim(s) 1-11 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 12-22 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) #4
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Election/Restriction

15. Restriction to one of the following inventions is required under 35

U.S.C. 121:

I. Claims 1-11, drawn to Method of making, classified in class 264, subclass 122.

II. Claims 12-22, drawn to durable fabric, classified in class 442, subclass 324..

16. The Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process by pre dyeing the fibers before the web is made.

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18. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

19. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

20. During a telephone conversation with Stephen D. Geimer on 7/2/2002 a provisional election was made with traverse to prosecute the invention of Group II, claims 12-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

21. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

22. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13, it is not clear what the correct antecedent basis is, since the claim 12 is an article claim to a durable nonwoven fabric, not a claim directed to a method of making. The Examiner will take the position that this is an article claim until corrected.

In claim 14, it is not clear what the correct antecedent basis is for the same reason given in claim 13.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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24. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruise et al. 5,874,159 in view of Drelich et al. 5,098,764 and Namiki et al. 3,966,406.

Cruise describes a method of making nonwoven fabrics which are durable, (see abstract). Cruise describes the fabric is made of two layers (like a precursor web), (see abstract; column 2, lines 11-22). Cruise describes the base fabrics can be similar or different and can be hydroentangled, (column 3, lines 12-19; column 4, lines 65-68). Cruise describes materials of polyester and polyamide (like nylon), (column 5, lines 40-50). Cruise differs from the claimed invention because it is silent about the image transfer device to form an imaged non-woven fabric and the dyeing.

Drelich describes an image transfer device to form an imaged nonwoven fabric with enhanced physical properties and fabric with pleasing appearance, (column 2, lines 6-11; see Figure 3). Drelich describes the production of fabrics with superior properties with entangled fibers, (column 2, lines 38-68).

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Namiki describes dyeing of fibrous articles, (see abstract). Namiki describes dyeing of polyester type fibers which can be in the form of knitted, woven or non-woven fabric, (column 3, lines 5-13). Namiki describes jet dyeing of fabrics, (column 3, lines 14-32).

It would have been obvious to one of ordinary skill in the art to modify the fabric of Cruise with the image transfer device of Drelich and to modify the fabric of Cruise with the jet dyeing of Namiki motivated with the expectation that improved fabric properties of image and pattern appearance as well as dye irregularity improvement, (column 2, lines 15-17 of '406), would result, (column 2, lines 7-8, 67-68).

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

July 2, 2002


ELIZABETH M. COLE
PRIMARY EXAMINER